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AMENDED IN ASSEMBLY MAY 10, 2006

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CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 2573

Introduced by Assembly Member Leno

February 23, 2006

An act to amend Section 2828 of the Public Utilities Code, relating to electricity.

LEGISLATIVE COUNSEL'S DIGEST

AB 2573, as amended, Leno. Electricity: Hetch Hetchy Water and Power solar generation.

(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law authorizes the City and County of San Francisco to elect to designate specific photovoltaic electricity generation facilities meeting specified conditions as Hetch Hetchy Water and Power (HHWP) solar generation facilities, and upon election and the filing and acceptance of an advice letter with the commission establishing rates, Pacific Gas and Electric Company (PG&E) is required on a monthly basis, to credit the City and County of San Francisco for certain electricity generated and delivered to the electric grid by HHWP solar generation in accordance with specified

rate criteria. Existing law provides that the HHWP solar generation may not exceed 5 megawatts of peak generation capacity in total. Existing law provides that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. Existing law provides that where, after a true-up process is completed, the total electricity delivered to the site by PG&E is less than the total electricity delivered to the grid by the HHWP photovoltaic electricity generation facility at the site, the City and County of San Francisco is a net energy producer at that site and receives no credit or offset for the excess electricity exported to the grid from the site.

This bill would authorize 2 different HHWP photovoltaic electricity generation mechanisms. The existing authorization, as modified, would apply to HHWP at-site solar generation, as defined. The bill would provide that HHWP at-site solar generation may not, exclusive of qualifying remote load, as defined, exceed 15 megawatts of peak generation capacity in total. The bill would additionally authorize the City and County of San Francisco to use HHWP remote solar generation, as defined, to supply electricity to qualifying remote load by designating those facilities to be served by HHWP remote solar generation. The bill would delete the provision that no single photovoltaic generation project may exceed one megawatt of peak generation capacity. The bill would require that PG&E accept any electricity exported to the grid by HHWP remote solar generation, up to the amount of electricity contemporaneously being used by the qualifying remote load, and to treat the electricity accepted as behind the meter generation that offsets the electrical usage of qualifying remote load. The bill would make the City and County of San Francisco responsible for scheduling the electricity exported to the grid from HHWP remote solar generation. The bill would require that HHWP remote solar generation sites and qualifying remote load sites have meters capable of measuring exports and usage of electricity sufficient to determine credits or offsets and would make the City and County of San Francisco responsible for the cost of those meters. The bill would require that the appropriate regulatory agency ensure that the delivery of electricity by HHWP remote solar generation to qualifying remote load, and the granting of offsets to the City and County of San Francisco, not result in a shifting of costs to bundled service customers.

Existing law provides that if the City and County of San Francisco engages in retail sales to customers within the service territory of

PG&E, the above described provisions relative to HHWP solar generation become inoperative.

This bill would delete this provision.

(2) The bill would declare that, due to the special circumstances applicable only to HHWP solar generation facilities, a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution, and the enactment of a special statute is therefore necessary.

(3) Under existing law, a violation of the Public Utilities Act, a filed tariff, or an order of the commission is a crime.

Because the provisions of this bill would require the filing of a new tariff, the bill would impose a state-mandated local program by creating a new crime.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2828 of the Public Utilities Code is
2 amended to read:

3 2828. (a) As used in this section, the following terms have
4 the following meanings:

5 (1) "Appropriate TOU tariff" means the Time-of-Use tariff
6 that would be applicable to the City and County of San Francisco
7 account at the photovoltaic electricity generation project site if
8 the facility at the site were a Pacific Gas and Electric Company
9 bundled customer, as determined by Pacific Gas and Electric
10 Company.

11 (2) "Environmental attributes" associated with the Hetch
12 Hetchy Water and Power (HHWP) at-site solar generation and
13 HHWP remote solar generation include, but are not limited to,
14 the credits, benefits, emissions reductions, environmental air
15 quality credits, and emissions reduction credits, offsets, and
16 allowances, however entitled, resulting from the avoidance of the

1 emissions of any gas, chemical, or other substance attributable to
2 the Hetch Hetchy Water and Power photovoltaic electricity
3 generation facility owned by the City and County of San
4 Francisco.

5 (3) “HHWP at-site solar generation” means the electricity
6 generated by Hetch Hetchy Water and Power photovoltaic
7 electricity generation facilities owned by the City and County of
8 San Francisco, designated by the City and County of San
9 Francisco pursuant to subdivision (b).

10 (4) “HHWP remote solar generation” means the electricity
11 generated by Hetch Hetchy Water and Power photovoltaic
12 electricity generation facilities owned by the City and County of
13 San Francisco, designated by the City and County of San
14 Francisco pursuant to subdivision (h), to provide electricity to
15 qualifying remote load.

16 (5) “Interconnection Agreement” means the 1987 agreement
17 between Pacific Gas and Electric Company and the City and
18 County of San Francisco, as filed with and accepted by the
19 Federal Energy Regulatory Commission (FERC), and as
20 amended from time to time with FERC approval, which provides
21 for rates for transmission, distribution, and sales of supplemental
22 electricity to the City and County of San Francisco. Nothing in
23 this section shall waive or modify the rights of parties under the
24 Interconnection Agreement or the jurisdiction of the FERC over
25 rates set forth in the Interconnection Agreement.

26 (6) “Qualifying remote load” means the electricity demand of
27 the City and County of San Francisco for public purposes
28 pursuant to the Raker Act (Public Law 63-41, 38 Stat. 412), at a
29 site that is separate from, and not adjacent to, the site where the
30 photovoltaic project is located, and serviced through a meter or
31 multiple meters other than those serving the site where the
32 photovoltaic project is located. The separate or remote site may
33 be designated by the City and County of San Francisco, both
34 inside and outside of the City and County of San Francisco.
35 Where the separate or remote site is outside of the City and
36 County of San Francisco, it shall be located within 20 miles of
37 the City and County of San Francisco or within 20 miles of a
38 HHWP remote solar generation facility. There is no wattage limit
39 on qualifying remote load.

1 (b) The City and County of San Francisco may elect to
2 designate specific photovoltaic electricity generation facilities as
3 HHWP at-site solar generation, if all of the following conditions
4 are met:

5 (1) Total peak generating capacity does not exceed 15
6 megawatts.

7 (2) The photovoltaic project utilizes a meter, or multiple
8 meters, capable of separately measuring electricity flow in both
9 directions. All meters shall provide “time-of-use” measurement
10 information. If the existing meter at the site of the photovoltaic
11 project is not capable of providing time-of-use information or is
12 not capable of separately measuring total flow of energy in both
13 directions, the City and County of San Francisco is responsible
14 for all expenses involved in purchasing and installing a meter or
15 meters that are both capable of providing time-of-use information
16 and able to separately measure total electricity flow in both
17 directions.

18 (3) The amount of all electricity delivered to the electric grid
19 by the designated HHWP at-site solar generation is the property
20 of Pacific Gas and Electric Company.

21 (4) The City and County of San Francisco does not sell
22 electricity delivered to the electric grid from the designated
23 HHWP at-site solar generation to a third party.

24 (c) For each site of a photovoltaic electricity generation
25 project that comprises the HHWP at-site solar generation, Pacific
26 Gas and Electric Company shall identify the appropriate TOU
27 tariff for that site. Any electricity exported to the Pacific Gas and
28 Electric Company grid at that site that is not generated from
29 HHWP remote solar generation pursuant to subdivision (h) shall,
30 for each time-of-use period, result in a monetary credit to be
31 applied monthly as a credit or offset against the invoice created
32 pursuant to the Interconnection Agreement and shall be valued at
33 the generation component of the appropriate TOU tariff. The
34 commission shall determine if it is appropriate to increase the
35 credit to reflect any additional value derived from the location or
36 the environmental attributes of, the designated HHWP at-site
37 solar generation.

38 (d) Monthly charges and credit amounts for HHWP at-site
39 solar generation are interim and subject to an accounting true-up,
40 consistent with commission policies and practices. The true-up

1 shall be performed annually or upon the termination, for any
2 reason, of the Interconnection Agreement. The true-up shall
3 accomplish the following:

4 (1) If the total electricity delivered to the site by Pacific Gas
5 and Electric Company since the previous true-up equals or
6 exceeds the total electricity exported to the grid by the HHWP
7 at-site solar generation facility at the site, the City and County of
8 San Francisco is a net electricity consumer at that site. For any
9 HHWP at-site solar generation site where the City and County of
10 San Francisco is a net electricity consumer, a credit or offset
11 shall be applied to reduce the obligations of the City and County
12 of San Francisco to an invoice prepared pursuant to the
13 Interconnection Agreement. If there is no invoiced obligation to
14 be reduced, there is no applicable credit.

15 (2) If the total electricity delivered to the site by Pacific Gas
16 and Electric Company since the previous true-up is less than the
17 total electricity exported to the grid by the HHWP at-site solar
18 generation facility at the site, the City and County of San
19 Francisco is a net electricity producer at that site. For any HHWP
20 at-site solar generation site where the City and County of San
21 Francisco is a net electricity producer, the City and County of
22 San Francisco shall receive no credit or offset for the electricity
23 exported to the grid in excess of the electricity delivered to the
24 site from the grid. For any site where the City and County of San
25 Francisco is a net electricity producer, the City and County of
26 San Francisco shall receive a credit or offset up to the amount of
27 electricity delivered to the site from the grid. The credit or offset
28 shall be applied to reduce the obligations of the City and County
29 of San Francisco to an invoice prepared pursuant to the
30 Interconnection Agreement. If there is no invoiced obligation to
31 be reduced, there is no applicable credit or offset. Pacific Gas and
32 Electric Company shall use the last-in, first-out method to
33 determine what electricity delivered to the grid from the site will
34 not earn a credit or offset.

35 (e) Pursuant to this section, the offset to charges under the
36 Interconnection Agreement is the medium to convey credits
37 earned under this section. Nothing in this section shall be
38 construed to affect in any way the rights and obligations of the
39 City and County of San Francisco and Pacific Gas and Electric
40 Company under the Interconnection Agreement. If the

1 Interconnection Agreement terminates, the City and County of
2 San Francisco and Pacific Gas and Electric Company shall
3 develop an alternative mechanism to convey credits earned under
4 this section, in a manner that accomplishes the same result as that
5 accomplished pursuant to the Interconnection Agreement.

6 (f) (1) Pacific Gas and Electric Company shall file an advice
7 letter with the commission, that complies with this section, not
8 later than 10 days after the City and County of San Francisco
9 first designates the specific photovoltaic electricity generation
10 facilities that will comprise HHWP at-site solar generation.

11 (2) The commission, within 30 days of the date of filing of the
12 advice letter, shall approve the advice letter or specify
13 conforming changes to be made by Pacific Gas and Electric
14 Company to be filed in an amended advice letter within 30 days.

15 (g) The City and County of San Francisco may terminate its
16 election pursuant to subdivisions (b), (c), and (d), upon providing
17 Pacific Gas and Electric Company with a minimum of 60 days'
18 written notice.

19 (h) (1) The City and County of San Francisco may elect to
20 designate specific photovoltaic electricity generation facilities as
21 HHWP remote solar generation and may use HHWP remote solar
22 generation to supply electricity to facilities designated as
23 qualifying remote load up to the amount of electricity being used
24 by the qualifying remote load.

25 (2) The City and County of San Francisco shall receive no
26 credit or offset for the electricity exported to the grid from
27 HHWP remote solar generation, in excess of the electricity
28 delivered from the grid to qualifying remote load.

29 (3) Pacific Gas and Electric Company shall accept any
30 electricity exported to the grid by HHWP remote solar
31 generation, up to the amount of electricity contemporaneously
32 being used by the qualifying remote load, and treat the electricity
33 accepted as behind the meter generation that offsets the electrical
34 usage of qualifying remote load.

35 (4) The City and County of San Francisco shall be responsible
36 for scheduling the electricity exported to the grid from HHWP
37 remote solar generation.

38 (5) Both HHWP remote solar generation sites and qualifying
39 remote load sites shall have meters capable of measuring exports
40 and usage of electricity that will support determination of credits

1 or offsets pursuant to paragraph (2). The City and County of San
2 Francisco shall be responsible for the costs of the meters required
3 pursuant to this section.

4 (6) To compensate Pacific Gas & Electric Company for the
5 use of its distribution facilities, the City and County of San
6 Francisco shall pay applicable distribution rates, transmission
7 rates, or distribution and transmission rates, as determined by the
8 Interconnection Agreement, for all energy delivered to qualifying
9 remote load that comes from HHWP remote solar generation.

10 *When a remote solar generation facility is directly*
11 *interconnected to a transmission line, applicable transmission*
12 *rates as determined by the Interconnection Agreement shall*
13 *apply. When a remote solar generation facility is not directly*
14 *interconnected to a transmission line, no transmission rates shall*
15 *apply. When a remote solar generation facility is directly*
16 *interconnected to a distribution line, applicable distribution rates*
17 *as determined by the Interconnection Agreement shall apply.*

18 (7) The appropriate regulatory agency shall ensure that the
19 delivery of electricity by HHWP remote solar generation to
20 qualifying remote load, and the granting of offsets to the City and
21 County of San Francisco pursuant to this subdivision, do not
22 result in a shifting of costs to bundled service customers, either
23 immediately or over time.

24 (i) Hetch Hetchy Water and Power shall reimburse Pacific Gas
25 and Electric Company for its reasonable study costs associated
26 with HHWP remote solar generation to address interconnection,
27 consistent with Rule 21, and impacts upon the distribution
28 system resulting from the HHWP remote solar generation. If the
29 studies identify improvements necessary for the protection of the
30 Pacific Gas and Electric Company distribution system, for the
31 protection of its employees, or to ensure reliable delivery of the
32 electricity generated by the HHWP remote solar generation
33 facility to qualifying remote load, Hetch Hetchy Water and
34 Power shall pay the reasonable costs of the improvements if it
35 elects to designate the HHWP remote solar generation facility to
36 provide electricity for qualifying remote load. For purposes of
37 this subdivision, “Rule 21” means the Interconnection Standards
38 for distributed generation adopted by the commission in Decision
39 00-11-001 and Decision 00-12-037, as modified by the

1 commission and implemented in commission-authorized tariff
2 Rule 21.

3 (j) Ownership and use of the environmental attributes
4 associated with the electricity delivered to the electric grid by
5 HHWP at-site solar generation and HHWP remote solar
6 generation shall be determined by the commission in accordance
7 with Article 16 (commencing with Section 399.11) of Chapter
8 2.3 of Part 1.

9 SEC. 2. The Legislature finds and declares that, because of
10 the unique circumstances applicable only to Hetch Hetchy Water
11 and Power solar generation of electricity, a statute of general
12 applicability cannot be enacted within the meaning of
13 subdivision (b) of Section 16 of Article IV of the California
14 Constitution. Therefore, this special statute is necessary.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the
20 penalty for a crime or infraction, within the meaning of Section
21 17556 of the Government Code, or changes the definition of a
22 crime within the meaning of Section 6 of Article XIII B of the
23 California Constitution.